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MEXICAN WILDLIFE TREATY  
PUT INTO EFFECT; EXTENDS  
U. S. CONTROL OVER BIRDS

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A treaty between the United States and Mexico for the protection of migratory birds and game mammals, which had been pending for a number of years, has become effective following the exchange of ratifications at Washington, D. C., by the two Governments. The treaty was made public by a proclamation by President Roosevelt on March 15, 1937. Laws and regulations under the treaty will be administered by the U. S. Department of Agriculture.

By this treaty, says the U. S. Biological Survey, the authority of the United States over migratory birds while they are in this country now has a dual basis--Canadian and Mexican treaty obligations--and the three countries are now linked in cooperative efforts to extend protection to wildlife in general. The new treaty also provides Federal protection for 140 species and their subspecies not protected under provisions of the convention with Great Britain in respect of Canada. The treaty in respect of Canada protects birds that migrate between the United States and that country, but many birds that cross the Mexican border in their northern migrations do not reach Canada. Among the species added to the protected list by the Mexican treaty are certain ducks, white-winged doves, mockingbirds, thrashers, horned larks, blackbirds, grackles, cowbirds, phainopeplas, buntings, finches, and sparrows.

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The Mexican treaty also provides for the future inclusion of other migratory species "which the Presidents of the United States of America and Mexico may determine by common agreement." Neither game mammals nor migratory birds, says the treaty, may be transported, dead or alive, over the Mexican border without a permit from the Government of each country.

The convention was signed February 7, 1936, by Josephus Daniels, American Ambassador to Mexico, and Eduardo Hay, Foreign Minister of Mexico. Major E. A. Goldman, of the Biological Survey, and Ing. Miguel de Quevedo and Juan Zinser, of the Mexican Department of Forestry, Game, and Fish, assisted in the technical phases of the negotiations. The U. S. Senate on April 30, 1936, advised and consented to the ratification of the treaty, and similar action was taken by the Mexican Senate on November 27, 1936. President Cardenas of Mexico signed the ratification decree on December 11.

An Act of Congress approved by President Roosevelt on June 20, 1936, providing for the amendment of the Migratory Bird Treaty Act of 1918 to make the law applicable to the treaty with Mexico as well as to the treaty in respect to Canada, came into force today upon the President's/proclamation of the exchange of ratifications of the treaty with Mexico. The amended act authorizes the appropriation of Federal funds for putting into effect the treaties and acts and regulations thereunder, for cooperating with local authorities in the protection of migratory birds, and for making necessary investigations. The act provides for its administration by the Secretary of Agriculture.

The constitutionality of the Treaty Act of 1918 was sustained by the U. S. Supreme Court in a decision rendered April 19, 1920, in the case of the State of Missouri vs. Ray P. Holland. Holland, then a Federal game warden, was engaged in enforcing the Treaty Act, and the State claimed that the Act was an unconstitutional interference with the rights reserved to it by the Tenth Amendment of the Constitution and that the Federal warden was, therefore, without power to enforce the Treaty Act in Missouri. The Court, however, speaking

through Mr. Justice Holmes, held that under Article I, Section 8, the Congress could pass an act to execute the terms of the treaty. The only question, therefore, was whether the treaty was a valid exercise of the constitutional treaty-making power. The Court held that the treaty "does not contravene any prohibitory words to be found in the Constitution."

Other provisions of the Mexican treaty include the limitation of migratory-bird hunting to a maximum of 4 months in each year; closing the season on ducks in both countries from March 10 to September 1; and establishment of refuge zones in which the taking of migratory birds will be prohibited. The new convention "shall remain in force for 15 years and shall be understood to be extended from year to year if the high contracting parties have not indicated 12 months in advance their intention to terminate it".

Families of protected birds are specified in the Mexican treaty as follows:

Migratory game birds: Anatidae (swans, ducks, geese); Rallidae (rails, gallinules, and coots); Scolopacidae (woodcock, snipe, and sandpipers); Phalaropodidae (phalaropes); Gruidae (cranes); Charadriidae (plovers, turnstones, and surfbirds); Recurvirostridae (avocets and stilts); Columbidae (pigeons and doves).

Migratory nongame birds: Cuculidae (cuckoos, roadrunners, and anis); Micropodidae (swifts); Picidae (woodpeckers); Alaudidae (larks); Paridae (titmice, verdins, and bushtits); Troglodytidae (wrens); Mimidae (mockingbirds and thrashers); Motacillidae (wagtails and pipits); Ptilogonatidae (silky flycatchers); Vireonidae (vireos); Icteridae (meadowlarks, blackbirds, and troupials); Fringillidae (grosbeaks, finches, sparrows, and buntings); Caprimulgidae (goatsuckers); Trochilidae (hummingbirds); Tyrannidae (tyrant flycatchers); Hirundinidae (swallows); Certhiidae (creepers); Turdidae (thrushes, bluebirds, stonechats, and solitaires); Sylviidae (warblers, gnatcatchers, and kinglets); Bombycillidae (waxwings); Laniidae (shrikes); Compothlypidae (wood warblers); Thraupidae (tanagers).